

# **EXHIBIT 3**

David Egilman, M.D.

1                   UNITED STATES DISTRICT COURT  
2                   EASTERN DISTRICT OF LOUISIANA

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5       IN RE:   VIOXX PRODUCTS           )   MDL DOCKET NO. 1657  
6       LIABILITY LITIGATION           )   SECTION L  
7    )  
8       THIS DOCUMENT RELATES TO:      )   Videotaped  
9    )   Deposition of:  
10      Jo Levitt v. Merck Sharp & )  
11      Dohme Corp., Case No:          )   DAVID EGILMAN, M.D.  
12      2:06-cv-09757-EEF-DEK        )

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17                   April 12, 2016

18                   8:49 a.m.

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20                   Location: Siegfried & Jensen  
21    5664 South Green Street  
22    Salt Lake City, UT 84123

23

24                   Reporter: Teri Hansen Cronenwett

25                   Certified Realtime Reporter, Registered Merit Reporter

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1 of the slides in that folder deal with that topic from a  
2 epidemiologic standpoint. But all of the slides in that  
3 packet deal with the issue of ACS and Vioxx.

4 Q. When did you create this slide?

5 A. Last few days.

6 Q. When did you communicate with Dr. Madigan  
7 about performing this analysis?

8 A. Last few days.

9 Q. What specifically did you ask Dr. Madigan to  
10 do?

11 A. Run the -- well, first I asked him if he had  
12 run an analysis just for the criteria for ACS, and he  
13 said they hadn't done that, and I said could he, and he  
14 said yes, and he did it.

15 Q. Did you provide to him the end points that you  
16 thought were appropriate to use in this analysis for  
17 ACS?

18 A. I think I sent him, yeah. Something.

19 Q. You provided to Dr. Madigan a list of end  
20 points that he could use for purposes of conducting this  
21 metaanalysis?

22 A. Yeah. And then it was one he wasn't sure  
23 about, which was cardiac arrest. That's why you see two  
24 PowerPoints there. He then said, "Do you want me to do  
25 it with cardiac arrest as well?" And I said "Sure."

1 question. That's fine. I am just noting that's how  
2 much time it took you to do it. And my question for you  
3 now is, why didn't you just go through that information  
4 in your expert report for Ms. Levitt, given that your  
5 opinion is that she experienced unstable angina?

6 A. My opinion is the same as Dr. Pratt's opinion,  
7 that she had acute coronary syndrome. That's number  
8 one. Okay. Angina is -- unstable angina is one  
9 component of acute coronary syndrome. There is a reason  
10 that all of these papers call it -- studied the outcome  
11 measure of acute coronary syndrome. Do you know what it  
12 is? It's doctors understand that there are three things  
13 that relate to each other. Angina pectoris, unstable,  
14 MI, and death from heart attack. They are related.  
15 They often follow in a common pattern. People present  
16 to the hospital with unstable angina, that they go on to  
17 have an MI. The reason you treat someone with unstable  
18 angina or are concerned about them is because they might  
19 have an MI and die.

20 So it is a syndrome where -- of different  
21 components. I mean, it's as if you said, oh, she had  
22 pain in her left arm. Show me the studies that show  
23 that Vioxx causes pain in the left arm. There aren't  
24 any. I am sure that if you looked at the Vioxx studies  
25 and Merck had asked, "Did you experience pain in your

1 left arm prior to your death and your heart attack?"

2 Okay. The answer would be yes, and it would be a  
3 statistically significant increase.

4 And unstable angina pectoris is the same as  
5 pain in your left arm. Now, not everybody with pain in  
6 their left arm who is going to have a heart attack or  
7 has heart disease actually has a heart attack. And so  
8 it's part of the syndrome which Dr. Pratt diagnosed her  
9 as having.

10 I don't -- so I didn't look for -- I mean, it  
11 would be like saying, "Did she have a shirt on?" And my  
12 opinion is, she was dressed with a shirt on. And now,  
13 your question is, "Well, show me the studies that say a  
14 blue shirt is a shirt." Okay. All right. There are no  
15 studies that say blue shirt's a shirt because doctors  
16 understand it's a syndrome. That's why it's used as the  
17 outpoint in a combined way in all these studies. And  
18 that's why it's not separated out. Because in most  
19 people who have unstable angina pectoris, actually go on  
20 to have an MI. And when people write it down, MI being  
21 a harder outcome as we have discussed before, then  
22 unstable angina pectoris, people put down MI.

23 So that's why I didn't try to separate  
24 unstable angina. It's actually impossible without  
25 getting the patient level data and medical information

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1 from Merck, okay, which we have, which is how I could  
2 produce it in more or less, how Madigan can produce it.  
3 Because he could look at your underlying data and get  
4 that answer.

5 But you had the same data. Merck had the same  
6 data. Merck published their data many times, never  
7 separated it out. Didn't mean it didn't exist. What it  
8 did mean, except for parsing and game playing and  
9 litigation, it didn't matter. Because everybody  
10 understands that acute coronary syndrome means a bad  
11 thing happened to your heart, and those are the three  
12 bad things that generally happen.

13 Q. In Ms. Levitt's case the bad thing  
14 specifically that happened in your opinion is unstable  
15 angina, correct?

16 A. No. The bad thing that happened to Ms. Levitt  
17 was coronary artery disease, which manifested clinically  
18 initially as unstable angina pectoris. It could have  
19 manifested as a heart attack. It could have manifested  
20 as pain in her left arm. It could have manifested as  
21 pain in her back. Okay.

22 That's how she presented her coronary artery  
23 disease. It's just a symptom of coronary artery  
24 disease. So that's why I didn't think it was necessary,  
25 to finish my answer, to parse out acute, you know,

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1       angina pectoris or unstable angina pectoris.

2           Q.     Are you expressing an opinion in this case  
3        that Vioxx is causally associated with the incidence of  
4        coronary artery disease?

5           A.     Sure. It causes heart attacks. The  
6        underlying cause of heart attacks is coronary artery  
7        disease. It also probably contributes to plaque  
8        instability. Okay. Less sure, but probably. Okay.  
9        And so that -- those are the probable mechanisms.

10           It also causes heart attacks by putting into  
11        congestive heart failure, putting more stress on your  
12        heart. So there are a variety of ways Vioxx can kill  
13        you through your heart. But in terms of the symptom of  
14        unstable angina pectoris. It's generally coronary  
15        artery disease progression or plaque release.

16           Q.     Are you expressing an opinion in this case to  
17        a reasonable degree of medical certainty that  
18        Ms. Levitt's use of Vioxx caused her atherosclerosis?

19           A.     Caused or contributed to. Most likely  
20        contributed to. She has other risk factors for  
21        atherosclerosis, as does everyone else in the world. So  
22        -- who has atherosclerosis. It's not the sole cause.  
23        It's a contributing factor that caused it to increase or  
24        -- and/or caused a plaque to break off, causing her  
25        unstable angina.

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1 you sit here today, a specific randomized, controlled  
2 trial that you believe to show a statistically  
3 significant increased risk of unstable angina in  
4 association with the use of Vioxx?

5 A. I think it's probably in some of the larger  
6 trials. But in order to get the answer, we have to go  
7 out and re -- redo the data tables that Merck did  
8 because of the way Merck conflated the tables.

9 In other words, if you had unstable angina MI,  
10 you were categorized as MI. So you would have to  
11 actually go back to the patient charts and get the data.  
12 I think that's probably doable. I don't think that's  
13 necessary.

14 Q. Do you agree that, as you sit here today, you  
15 are not able to specifically identify a randomized  
16 controlled trial that shows a statistically significant  
17 increased risk of unstable angina in association with  
18 the use of Vioxx?

19 A. No, I just gave you one. I handed you one at  
20 the beginning of the day. That's Madigan's.

21 Q. So you are now referring to Exhibit 2 and  
22 specifically the final slide in what we have marked as  
23 Exhibit 2?

24 A. Correct.

25 Q. Okay. Other than Dr. Madigan's analysis that

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1       angina or if this second alleged unstable angina was a  
2       readjudicated something else. But I don't know. I  
3       can't figure out where this second unstable angina came  
4       from. I just noticed that as I was preparing.

5                  This is from Braunstein and Polus, you know,  
6       in response to the release of the 5005 New York Times  
7       story. And they report two unstable anginas, but this  
8       is -- the underlying data there's only one. So I don't  
9       know. That's one of my problems in doing this analysis.  
10      I can't fill figure out how they collapsed this.

11               Q.     For purposes of developing your own opinions  
12      in this case with respect to the potential question  
13      that -- of whether Vioxx is causally associated with an  
14      increased incidence of unstable angina, did you,  
15      yourself try to pool together data from various studies  
16      and perform any kind of statistical analysis?

17               A.     No, just asking Madigan to do it on your data.  
18      You have got the best data. I mean, you have the most  
19      data on -- you have all the Vioxx placebo trials. They  
20      are all yours. So that's the only data set that exists  
21      that it can be done on. He's got the data.

22               Q.     Let's go off the record. I just need a quick  
23      break.

24                  THE VIDEOGRAPHER: Going off the record. The  
25      time is 2:31 p.m.